

AN ORDINANCE 2012-12-13-1014

ADOPTING THE CITY OF SAN ANTONIO TAX ABATEMENT GUIDELINES EFFECTIVE JANUARY 1, 2013 THROUGH DECEMBER 31, 2014.

* * * * *

WHEREAS, tax abatements are used by local governments to attract new companies and to encourage the retention and expansion of existing companies; and

WHEREAS, Chapter 312 of the Texas Tax Code governs the use of tax abatements and authorizes the City to offer an abatement of up to 100% of ad valorem taxes on real and personal property improvements, inventory and supplies for up to 10 years; and

WHEREAS, in order to offer tax abatements, this statutory authority requires that City Council must approve new Guidelines every two years and allows amendment to the Guidelines, subject to a vote of 3/4 of the governing body; and

WHEREAS, the existing Tax Abatement Guidelines (the "Guidelines") were last approved for the period from January 1, 2010 through December 31, 2012; and

WHEREAS, the City Council finds that it is in the best interest of the City to adopt the attached Guidelines as recommended by staff to be effective January 1, 2013; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council adopts the Tax Abatement Guidelines attached hereto and incorporated herein as **Attachment I**.

SECTION 2. This Ordinance shall be effective immediately upon the receipt of at least nine (9) affirmative votes.

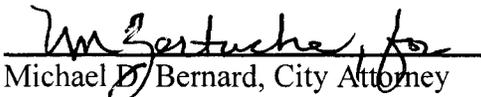
PASSED AND APPROVED this 13th day of December, 2012.

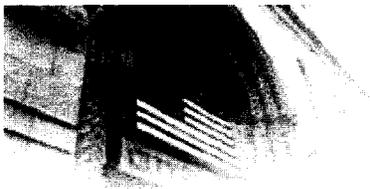

M A Y O R
Julián Castro

ATTEST:


Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:


Michael D. Bernard, City Attorney



Request for
COUNCIL
 ACTION

City of San Antonio



Agenda Voting Results - 32

Name:	10, 11, 12, 13, 15, 16, 17, 18A, 18B, 18C, 18D, 18E, 18F, 18G, 19A, 19B, 19C, 19D, 19E, 19F, 19G, 19H, 19I, 19J, 19K, 19L, 20, 21, 22, 24; 25A, 25B, 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37A, 37B, 37C, 37D						
Date:	12/13/2012						
Time:	03:04:01 PM						
Vote Type:	Motion to Approve						
Description:	An Ordinance approving the Adoption of Tax Abatement Guidelines for the period of January 1, 2013 – December 31, 2014. [Carlos Contreras , Assistant City Manager; Rene Dominguez, Director, Economic Development]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				x
Ivy R. Taylor	District 2		x				
Leticia Ozuna	District 3		x				
Rey Saldaña	District 4		x				
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x			x	
Cris Medina	District 7	x					
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
Carlton Soules	District 10		x				

ATTACHMENT I

CITY OF SAN ANTONIO

TAX ABATEMENT GUIDELINES



*Effective Month January 1, 2013 through December 31, 2014
(Approved by City Council December __, 2012)*



**CITY OF SAN ANTONIO
Economic Development Department
P.O. Box 839966
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Telephone: (210) 207-8080
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CITY OF SAN ANTONIO
Economic Development Department

Introduction

Chapter 312 of the Texas Tax Code authorizes local governments to abate 100 percent of ad valorem property taxes on the value of new property improvements for up to 10 years, including real property, tangible personal property, and inventory and supplies. The City of San Antonio is required by this same statute to develop and review guidelines at least every two years for the eligibility and award of a tax abatement.

These Guidelines support the City's priorities for attracting new investment and job retention/creation in the SA2020 targeted industries of Healthcare and Biosciences, Information Technology and Information Security, Aerospace and the New Energy Economy. The City Council is committed to fully evaluating the merits and benefits of each individual project and retaining the flexibility to offer any project up to the maximum tax abatement allowed under the law. The City Council has also directed staff to carefully consider high-priority opportunities with significant investment and/or job creation in the SA2020 targeted industries and high-wage jobs, and to exercise flexibility in offering the maximum tax abatement necessary to attract such projects to San Antonio regardless of where they locate in the community.

The growth, sustainability, and diversity of a regional economy are critical goals to the long-term prosperity of a community and its citizens. Communities must strategically plan and implement policies and incentive programs to achieve these goals. San Antonio's Tax Abatement Guidelines demonstrate a pro-business environment to help attract, retain and expand targeted industries, increase employment and high-wage jobs, expand the tax base, and create long-term capital investment and new wealth opportunities in the community.

State law further requires that each taxing jurisdiction enter into a Tax Abatement Agreement with each owner of property or the owner of a leasehold interest in real property receiving an abatement or portion thereof. These agreements are binding legal documents between all parties involved. Additional provisions and requirements are included in those agreements.

The City Council has adopted these Guidelines and will utilize them to ensure that any abatement of property taxes achieves the community's economic development goals. Each taxing jurisdiction independently decides whether or not to abate taxes for any given project and approval from one governmental entity does not guarantee approval from the other.

Section 1. Eligibility Criteria

1.1. To be eligible for consideration by City Council for a tax abatement under these Guidelines, a company or project must meet and/or exceed all of the criteria, as described below:

- Minimum amounts of real or personal property investment;
- Minimum levels of full-time job creation, except for data center projects and for mixed-use projects located in the Targeted Investment Area (TIA). (See map in Appendix A);
- Employee and dependent access to health care benefits;
- Minimum living wage requirements for all new and existing employees at project site; and
- Applicant must be in a targeted industry, a qualifying project or business activity.

1.2. The amount and term of the tax abatement offered will be dependent upon location of the project, other public incentives offered for the same project and the overall benefit to the city and community.

Section 2. Targeted Areas for Investment and Job Creation

To promote balanced growth, certain areas are targeted for job creation and investment. Depending on the location of the project, the terms (i.e., length and percentage) of the tax abatement will vary. City Council has adopted a Targeted Investment Area (TIA) which identifies areas of the City eligible for increased financial incentives, such as tax abatements and development fee waivers, to promote growth and development in the center city and downtown areas, Brooks City-Base, Port San Antonio, and certain commercial corridors. These Guidelines are aligned with that policy. Following are the specific tax abatement term areas as identified in Appendix A.

2.1 Areas eligible for a tax abatement up to a 10-year term:

- Projects located in the Targeted Investment Area.

2.2 Areas eligible for a tax abatement up to a 6-year term:

- Projects located outside the Targeted Investment Area; however, projects with investment (over \$30 million) and/or job creation (over 500 new jobs) are eligible for up to a 10-year term.

2.3 Areas *not* eligible for tax abatement:

- Projects involving new construction over the Edwards Recharge or Contributing Zones (see map in Appendix B) are ineligible, except for those projects that will not result additional impervious cover at the project site.
- New or existing projects that may have a potentially negative impact on military missions, such as encroachment around military bases.

Section 3. Capital Investment and Job Creation Requirements

3.1. State statute allows the City to offer tax abatements for up to 10 years on up to 100 percent of real and personal property improvements. The City will consider offering up to this maximum allowable tax abatement on “Exceptional” projects that meet or exceed a total capital investment of \$30 million (particularly data center projects) and/or create at least 500 new full-time jobs. In addition, the City is focused on attracting investment and creating/retaining jobs in the SA2020

targeted industries and on those projects locating in the Targeted Investment Area. For projects not meeting the “Exceptional” investment and/or job creation thresholds mentioned above, companies can use the following table as a guide in determining the “potential” maximum tax abatement incentive for a qualifying project:

City of San Antonio Tax Abatement Criteria		
Location of the Project	Non-Targeted Investment Area	Targeted Investment Area
Term of Abatement	Up to 6 Years	Up to 10 Years
Investment in Real & Personal Property	\$10 Million	\$1 Million
New Full-Time Jobs (Note 1)	100	25
Amount of Tax Abatement (Note 2)	Up to 50% on real and personal property improvements	Up to 100% on real and personal property improvements

Notes:

(1) Data centers, solar farms, and mixed-use projects in the TIA are exempt from the minimum job creation requirements.

(2) City staff will use the following criteria in determining the amount to offer a project based primarily on the following: (a) SA2020 targeted industry; (b) location of the project; (c) corporate, U.S. or regional headquarters; (d) total number of jobs; (e) total capital investment; (f) number of high-wage jobs (see definition in Appendix D); (g) project meets Leadership in Energy and Environmental Design (LEED) Green Building Rating System™ standards or equivalent acceptable methodology; (h) project enrolls in CPS Energy’s Windtricity or another CPS Energy renewable energy program.

Section 4. Timing

In order to be eligible for consideration, the company must submit an application prior to commencement of the project and prior to the issuance of any building permits or a Certificate of Occupancy, including any conditional permits. No tax abatement for a proposed project will take effect until a final negotiated agreement has been approved and fully executed. The timing and acquisition of personal property related to this project will impact its eligibility for abatement.

Section 5. Local Hire Requirement

Any project seeking a tax abatement must hire at least 25 percent of its new employees at the project location from residents of the City of San Antonio or Bexar County.

Section 6. Employee Health Care Benefits

The company seeking a tax abatement under these Guidelines must provide each full-time person employed at the project location and his or her dependents with access to a benefits package, including a health insurance program, within one year from date of employment.

Section 7. Wage Requirements

Companies receiving a tax abatement from the City must meet certain minimum wage requirements for all new and existing (i.e., retained) jobs at the project site.

7.1 Living Wage Requirement: In order to be eligible for a tax abatement, all (100 percent) of the company's new and existing employees *at the project location* must earn no less than a "living wage" throughout the full term of the Tax Abatement Agreement. This wage is based on the poverty level for a family of four, as determined annually (January) by the U.S. Department of Health and Human Services (HHS). As of January 26, 2012, the living wage requirement is \$11.08 per hour.

7.2 Seventy Percent Wage Requirement: In addition to the "Living Wage" requirement, after one year of initiating full operations at the project location, but not more than two years after execution of the Tax Abatement Agreement with the City, seventy percent (70%) of all new and existing employees, with at least one year of full employment with the company at the project location, must earn a cash wage at or exceeding the annual San Antonio Metropolitan Statistical Area (MSA) Median Hourly Wage for All Industries (Companies) for the most recent year. This wage is compiled by the Bureau of Labor Statistics (BLS) Occupational Employment Survey and published annually by the Texas Workforce Commission (TWC). This wage is updated annually, and for 2011 the current applicable wage is \$14.40 per hour.

7.3 If the company does not meet and maintain these wage requirements for all new and existing employees at the project location, the company will be in default of their Tax Abatement Agreement, which could result in termination of the Agreement and the recapture of all or a portion of the previously abated property taxes.

Section 8. Qualifying Industries/Business Activities or Projects

The majority of the company's business at the project location must be engaged in one of the following qualifying industries, business activities, or projects:

- Agribusiness
- Aviation/Aerospace and Space
- Healthcare and Biosciences
- Creative Services
- Environmental Technology (includes Green Technology)
- Finance
- Information Technology and Information Security
- Logistics and Distribution
- Manufacturing (any industry)
- Oil and Gas Industry, excluding storage and distribution facilities
- Telecommunications
- Corporate, U.S., and Regional Headquarters activities

- Mixed-use projects (commercial offices with a retail component) locating in the Targeted Investment Area.

Section 9. Companies and Projects Not Eligible for a Tax Abatement

Regardless of the investment or jobs created, the following types of businesses and projects are not eligible for a tax abatement:

- Projects involving new construction over the Edwards Recharge or Contributing Zone that will result in additional impervious cover at the project site.
- Retail stores, retail centers and/or businesses that primarily provide goods and services, including medical and professional services, directly to consumers on a competitive basis. Staff, however, may consider offering a tax abatement to such projects locating in the Targeted Investment Area.
- Outbound or contract call centers or customer service centers. Staff, however, may consider offering a tax abatement to such projects locating in the Targeted Investment Area.
- Hotels and motels.
- Projects that will negatively impact military missions and/or installations.
- Projects that have already been issued a building permit, including any conditional permits.

Section 10. Additional Terms and Conditions

Recipients of tax abatements must agree to work with Workforce Solutions Alamo to facilitate the posting and advertisement of new jobs at the property of interest, as well as for the recruitment of potential qualified applicants from the City of San Antonio and Bexar County for these positions. Workforce Solutions Alamo offers other employer services, such as assessment of basic skills and work aptitudes of potential employees, job matching services, labor market information, assistance in arranging workforce training, and outplacement services which the recipient may access.

Section 11. Recapture of Abated Taxes

Tax abatement agreements will provide for recapture of abated property taxes in the event contract terms and requirements are not met. These recapture provisions will survive any subsequent assignment of the Agreement. The following are the standard schedules that show what percentage of taxes abated will be recaptured (multiply the amount of taxes abated by the percentage in the recapture period):

6-Year Abatement Period		10-Year Abatement Period	
Termination of Abatement	Recaptured Taxes	Termination of Abatement	Recaptured Taxes
During Abatement Period	100%	During Abatement Period	100%
Year 1 of Recapture Period		Year 1 of Recapture Period	
Year 2 of Recapture Period	75%	Year 2 of Recapture Period	80%
Year 3 of Recapture Period	50%	Year 3 of Recapture Period	60%
Year 4 of Recapture Period	25%	Year 4 of Recapture Period	40%
		Year 5 of Recapture Period	20%
		Year 6 of Recapture Period	10%

Section 12. Non-Refundable Application Fee

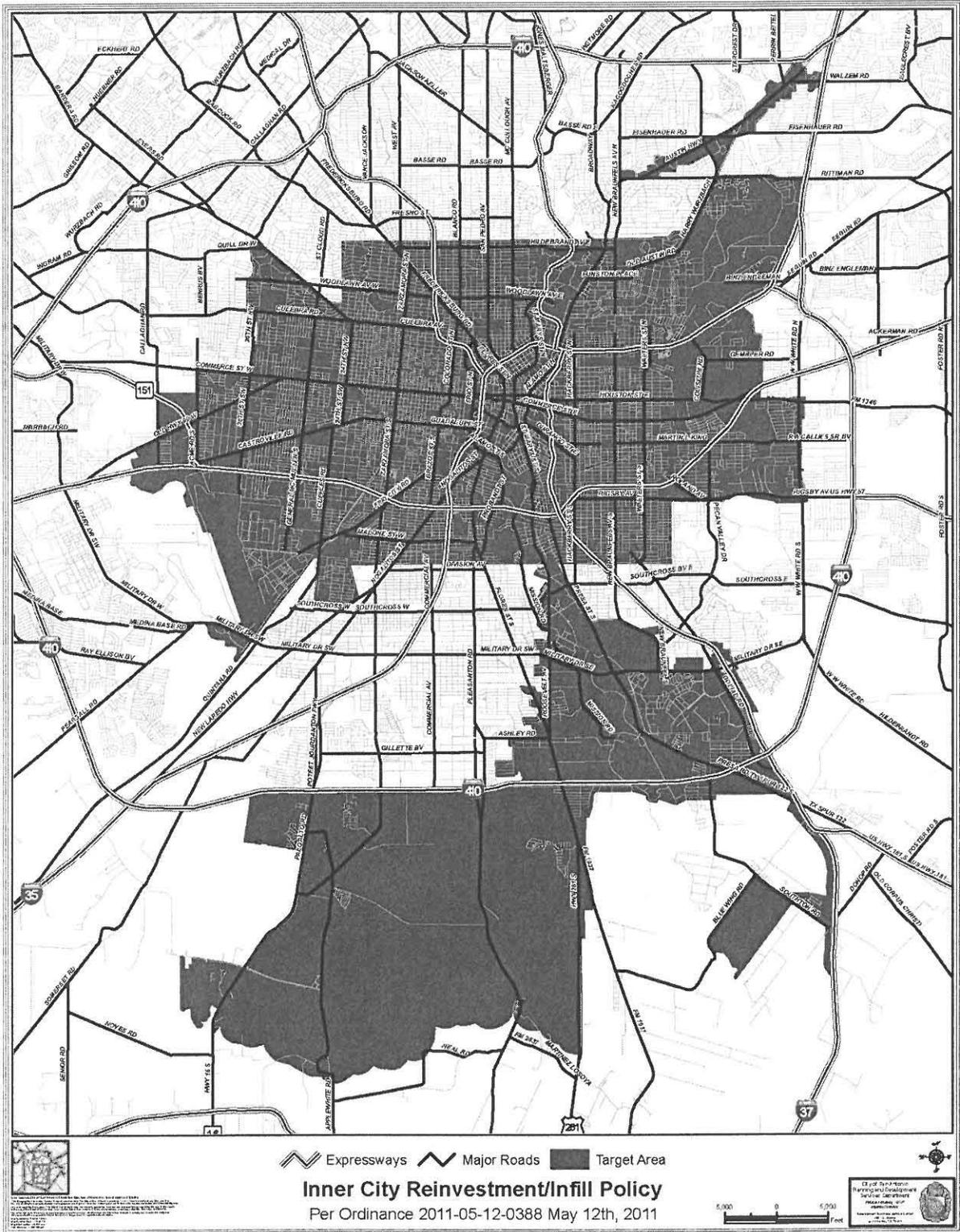
Companies must submit separate non-refundable application fees with their respective applications based upon the following schedule:

Jurisdiction	# of Employees in Applicant Firm	Fee (\$)
City of San Antonio	Minimum Fee	\$500
	100-499	\$1,000
	500+	\$1,500

12.1 Any project that requires an assignment or amendment will pay a fee of \$1,000 to the City of San Antonio. If a proposed project's investment, job creation, wages or construction schedule change significantly following the submittal of a completed application and payment of the fee to the City of San Antonio, or if an Agreement has not been finalized within one calendar year following application, the City of San Antonio may close out a pending application. Any submission of a new and subsequent application following such a close out will require another application fee for reconsideration of the tax abatement request.

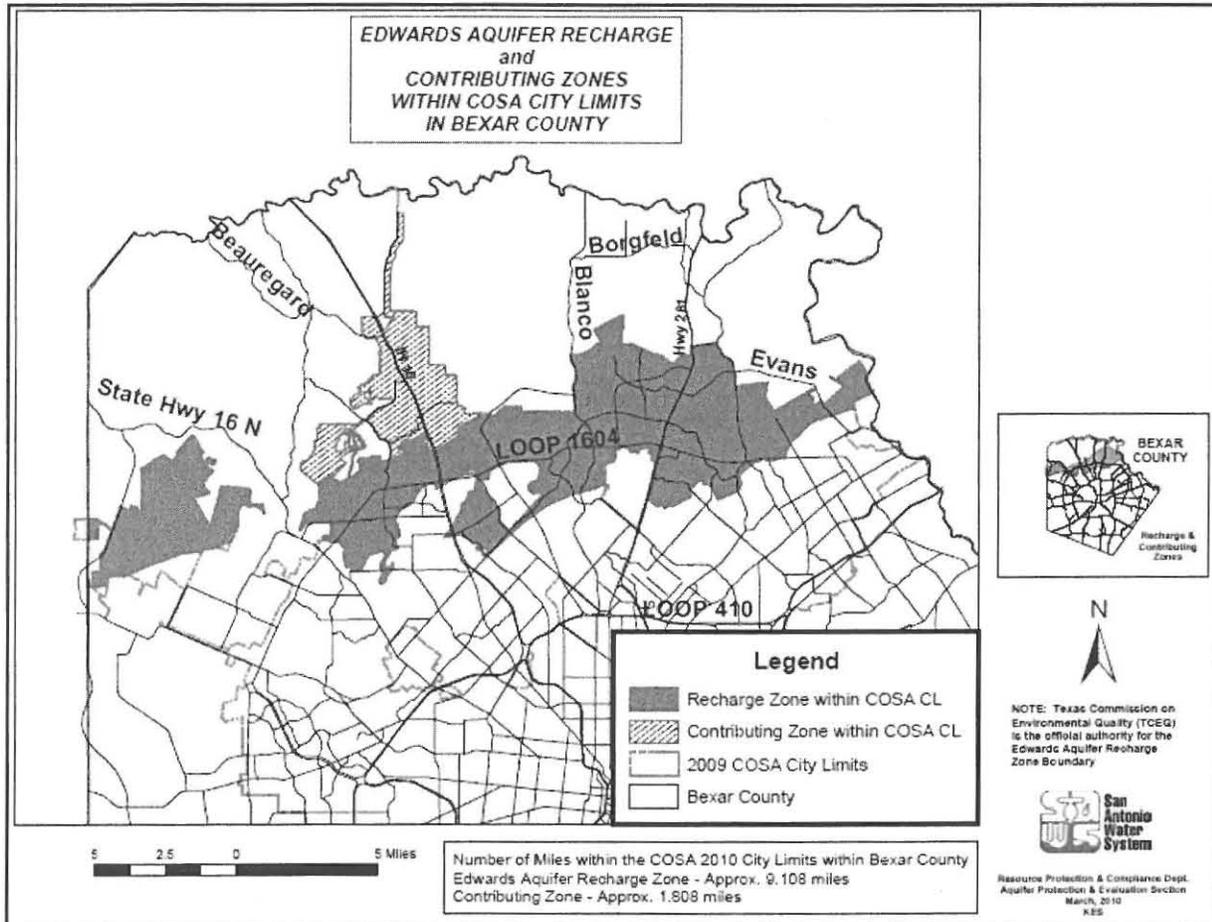
APPENDIX A

Map of the Targeted Investment Area



APPENDIX B

Edwards Recharge and Contributing Zones



APPENDIX C

Definitions

Data Center: Includes co-located data centers and enterprise data centers. Co-located data centers are those where equipment space and bandwidth are available for rental to retail customers. Collocation facilities provide space, power, cooling, and physical security for the server, storage, and networking equipment of other firms—and connect them to a variety of telecommunications and network service providers—with a minimum of cost and complexity. Enterprise Data Center consists of multiple data centers, each with a duty of sustaining key functions. These data centers can be classified into three types: internet, extranet, and intranet.

Edwards Recharge and Contributing Zones: The Edwards Aquifer Recharge Zone is that area where the stratigraphic units constituting the Aquifer crop out, including the outcrops of other geologic formations in proximity to the Aquifer, where caves, sinkholes, faults, fractures, or other permeable features would create a potential for recharge of surface waters into the Aquifer. The Contributing Zone is the drainage area or the catchment area. Here the land surface "catches" water from rainfall that averages about 30" per year, and water runs off into streams or infiltrates into the water table aquifer of the Edwards Plateau.

Targeted Investment Area: This area currently includes the Inner City Reinvestment/Infill Policy (ICRIP) Area which is an area approved by City Council and any future modifications to the current area boundaries as approved by City Council, including Brooks City-Base and Port San Antonio. The current ICRIP area encompasses Downtown, City-designated Reinvestment Plan Areas, City-initiated Tax Increment Reinvestment Zones within Loop 410, Brooks City-Base, Port San Antonio, and annexed portions of City South. Projects locating in the ICRIP are eligible for increased incentives, including development fee waivers to stimulate business activity and investment in the Downtown and surrounding areas (Exhibit A).

High-Wage Jobs: High-wage jobs are either: (1) Qualified professional jobs reported in high-wage industries (e.g. advanced business services, aerospace, life sciences, renewable energy, high-tech / IT); or (2) Jobs whose earnings are above the county average weekly wage (average for the most recent four quarters) as reported quarterly by the Bureau of Labor Statistics (currently \$43,186).